

This is not the official court record. Official records of court proceedings may only be obtained directly from the court maintaining a particular record.

Jose Gomez v. Wesley Beachy, K and K Trucking, Inc.

Case Number	49D04-2008-CT-028382
Court	Marion Superior Court, Civil Division 4
Type	CT - Civil Tort
Filed	08/19/2020
Status	08/19/2020 , Pending (active)

Parties to the Case

Defendant Beachy, Wesley

Address	9006 North Meridian Road Pleasant Lake, MI 49272
Attorney	Erin A Clancy <i>#2196249, Lead, Retained</i> KIGHTLINGER & GRAY LLP One Indiana Square - Suite 300 211 North Pennsylvania Street Indianapolis, IN 46204 317-638-4521(W)
Attorney	Jordan Mark Slusher <i>#3420449, Retained</i> 211 N Pennsylvania St Suite 300 Indianapolis, IN 46204 317-638-4521(W)

Defendant K and K Trucking, Inc.

Address	c/o Owner Operator Services, Inc., Mark Elrod 3037 North 550E Peru, IN 46970
Attorney	Erin A Clancy <i>#2196249, Lead, Retained</i> KIGHTLINGER & GRAY LLP One Indiana Square - Suite 300 211 North Pennsylvania Street Indianapolis, IN 46204 317-638-4521(W)
Attorney	Jordan Mark Slusher <i>#3420449, Retained</i> 211 N Pennsylvania St Suite 300 Indianapolis, IN 46204 317-638-4521(W)

Plaintiff Gomez, Jose

Attorney Ryan Etter
 #2783249, Retained

KEN NUNN LAW OFFICE
104 Franklin Road
Bloomington, IN 47404
812-332-9451(W)

Chronological Case Summary

08/19/2020 Case Opened as a New Filing

08/19/2020 Complaint/Equivalent Pleading Filed

Complaint for Damages

Filed By: Gomez, Jose
File Stamp: 08/19/2020

08/19/2020 Appearance Filed

Appearance

For Party: Gomez, Jose
File Stamp: 08/19/2020

08/19/2020 Subpoena/Summons Filed

Summons to Wesley Beachy

Filed By: Gomez, Jose
File Stamp: 08/19/2020

08/19/2020 Subpoena/Summons Filed

Summons to K and K Trucking, Inc.

Filed By: Gomez, Jose
File Stamp: 08/19/2020

08/26/2020 Service Returned Served (E-Filing)

Return of Service for K and K Trucking

Filed By: Gomez, Jose
File Stamp: 08/25/2020

08/31/2020 Appearance Filed

Appearance

For Party: Beachy, Wesley
For Party: K and K Trucking, Inc.
File Stamp: 08/31/2020

08/31/2020 Motion for Enlargement of Time Filed

Motion for Extension of Time

Filed By: Beachy, Wesley
Filed By: K and K Trucking, Inc.
File Stamp: 08/31/2020

09/01/2020 Order Granting Motion for Enlargement of Time

Order on Extension of Time

Judicial Officer: Ayers, Cynthia J
Order Signed: 08/31/2020

09/02/2020 Automated ENotice Issued to Parties

Order Granting Motion for Enlargement of Time ---- 9/1/2020 : Erin A Clancy;Jordan Mark Slusher;Ryan Etter

Financial Information

* Financial Balances reflected are current representations of transactions processed by the Clerk's Office. Please note that any balance due does not reflect interest that has accrued – if applicable – since the last payment. For questions/concerns regarding balances shown, please contact the Clerk's Office.

Gomez, Jose

Plaintiff

Balance Due (as of 09/18/2020)

0.00

Charge Summary

Description	Amount	Credit	Payment
Court Costs and Filing Fees	157.00	0.00	157.00

Transaction Summary

Date	Description	Amount
08/19/2020	Transaction Assessment	157.00
08/19/2020	Electronic Payment	(157.00)

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STATE OF INDIANA) IN THE MARION SUPERIOR COURT
) SS:
COUNTY OF MARION) CAUSE NO.

JOSE GOMEZ

VS.

WESLEY BEACHY and
K AND K TRUCKING, INC.

COMPLAINT FOR DAMAGES

Comes now the Plaintiff, Jose Gomez, by counsel, Ryan D. Etter of Ken Nunn Law Office, and for his cause of action against the Defendants, Wesley Beachy and K and K Trucking, Inc., alleges and states as follows:

STATEMENT AND JURISDICTION

1. This is a clear liability collision in which Defendants' 2010 Kenworth tractor and attached trailer was negligently driven by Wesley Beachy, causing a chain reaction collision with the vehicle driven by Plaintiff, Jose Gomez. As a result of the collision, Plaintiff has incurred medical expenses, property damage including, but not limited to, diminished value, and other special expenses in an amount to be proven at trial of this cause.

2. Jurisdiction and venue are appropriate in Marion County, Indiana, as said collision occurred within the boundaries of Marion County, State of Indiana.

FIRST CAUSE OF ACTION

NEGLIGENCE OF WESLEY BEACHY

3. Plaintiff realleges and incorporates herein by reference paragraphs 1 through 2 above as if fully restated verbatim.

4. On or about December 5, 2019 Defendant Wesley Beachy negligently drove a tractor-trailer, causing a chain reaction collision with a vehicle driven by the plaintiff, Jose Gomez.

5. Defendant Wesley Beachy had a duty to operate his tractor trailer in a safe and reasonable manner.

6. Defendant Wesley Beachy failed in the above mentioned duties and is therefore negligent.

APPEARANCE FORM (CIVIL)
Initiating Party

CAUSE NO:	
1. Name of first initiating party	Jose Gomez 2812 S Pennsylvania Street Indianapolis, IN 46225
2. Telephone of pro se initiating party	NA
3. Attorney information (as applicable for service of process)	Ryan D. Etter #27832-49 Ken Nunn Law Office 104 South Franklin Road Bloomington, IN 47404 PHONE: 812 332-9451 FAX: 812 331-5321 Email: ryan@kennunn.com
4. Case type requested	CT (Civil Tort)
5. Will accept FAX service	YES
6. Are there related cases	NO
7. Additional information required by State or Local Rules	
Continuation of Item 1 (Names of initiating parties)	NAME: NAME:
Continuation of Item 3 (Attorney information as applicable for service of process)	

s/Ryan D. Etter
Attorney-at-Law
(Attorney information shown above.)

7. Defendant Wesley Beachy's negligence was the direct and proximate cause of Plaintiff's injuries.

8. Plaintiff Jose Gomez's injuries and damages are permanent.

9. Plaintiff Jose Gomez has incurred medical bills for the treatment of his injuries directly resulting from this collision.

10. As a direct and proximate result of Wesley Beachy's negligence, Jose Gomez has experienced physical and mental pain and suffering, property damage including, but not limited to, diminished value, and has lost the ability to perform usual activities, resulting in a diminished quality of life.

SECOND CAUSE OF ACTION

NEGLIGENCE PER SE OF WESLEY BEACHY

11. Plaintiff realleges and incorporates herein by reference paragraphs 1 through 10 above as if fully restated verbatim.

12. Wesley Beachy violated state and federal statutes and regulations including but not limited to Title 9 of the Indiana Code.

13. Defendant Wesley Beachy's statutory violations directly and proximately caused Plaintiff's damages and injuries.

14. Defendant Wesley Beachy is negligent per se based on these statutory and regulatory violations.

THIRD CAUSE OF ACTION

RESPONDEAT SUPERIOR OF K AND K TRUCKING, INC.

15. Plaintiff realleges and incorporates herein by reference paragraphs 1 through 14 above as if fully restated verbatim.

16. Defendant Wesley Beachy was the employee, agent, servant, or independent contractor for K and K Trucking, Inc. Accordingly, K and K Trucking, Inc. is vicariously liable for the acts of Defendant Wesley Beachy for the causes of action above.

WHEREFORE, the Plaintiff, Jose Gomez, by counsel Ryan D. Etter of Ken Nunn Law Office, demands judgment against the Defendants, Wesley Beachy and K and K Trucking, Inc.

for permanent injuries in a reasonable amount to be determined at the trial of this cause, for medical expenses, property damage including, but not limited to, diminished value, and other special expenses, court costs and all other just and proper relief in the premises.

KEN NUNN LAW OFFICE

BY: s/Ryan D. Etter
Ryan D. Etter, #27832-49
KEN NUNN LAW OFFICE
104 South Franklin Road
Bloomington, IN 47404
Phone: (812) 332-9451
Fax: (812) 331-5321
E-mail: ryane@kennunn.com

REQUEST FOR TRIAL BY JURY

Comes now the plaintiff, by counsel, Ken Nunn Law Office, and requests that this matter be tried by jury pursuant to Trial Rule 38.

KEN NUNN LAW OFFICE

BY: s/Ryan D. Etter
Ryan D. Etter, #27832-49
KEN NUNN LAW OFFICE
104 South Franklin Road
Bloomington, IN 47404
Phone: (812) 332-9451
Fax: (812) 331-5321
E-mail: ryane@kennunn.com

Ryan D. Etter, #27832-49
Ken Nunn Law Office
104 South Franklin Road
Bloomington, IN 47404
Telephone: 812-332-9451
Fax Number: 812-331-5321
Attorney for Plaintiff

Marion Superior Court, Civil Division 4

Filed 8/19/2020 10:04 AM
Clerk
Marion County, Indiana

CIRCUIT/SUPERIOR COURTS FOR THE COUNTY OF MARION
 STATE OF INDIANA
 CITY COUNTY BUILDING, 200 E. WASHINGTON STREET
 INDIANAPOLIS, INDIANA 46204
 TELEPHONE 317 327-4740

Jose Gomez

Plaintiff(s)

VS.

No. _____

Wesley Beachy and K and K Trucking, Inc.

Defendant(s)

SUMMONSThe State of Indiana to Defendant: **Wesley Beachy, 9006 North Meridian Road, Pleasant Lake, MI 49272**

You have been sued by the person(s) named "plaintiff" in the court stated above.

The nature of the suit against you is stated in the complaint which is attached to this document. It also states the demand which the plaintiff has made and wants from you.

You must answer the complaint in writing, by you or your attorney, within Twenty (20) days, commencing the day after you receive this summons, or judgment will be entered against you for what the plaintiff has demanded. You have twenty-three (23) days to answer if this summons was received by mail. **Such Answer Must Be Made In Court.**

If you have a claim for relief against the plaintiff arising from the same transaction or occurrence, you must assert it in your written answer.

Date: 8/19/2020*Myla A. Eldridge*

CLERK, MARION CIRCUIT/SUPERIOR COURTS

RYAN D. ETTER, #27832-49
 ATTORNEY FOR PLAINTIFF
 KEN NUNN LAW OFFICE
 104 FRANKLIN ROAD
 BLOOMINGTON, IN 47404

ACKNOWLEDGMENT OF SERVICE OF SUMMONSA copy of the above summons and a copy of the complaint attached thereto were received by me at _____
 this _____ day of _____, 2020.**SIGNATURE OF DEFENDANT**

PRAECIPE: I designate the following mode of service to be used by the Clerk.

- By certified or registered mail with return receipt to above address.
- By Sheriff delivering a copy of summons and complaint personally to defendant or by leaving a copy of the summons and complaint at his dwelling house or usual place of abode with some person of suitable age and discretion residing therein.
- By _____ delivering a copy of summons and complaint personally to defendant or by leaving a copy of the summons and complaint at his dwelling house or usual place of abode.
- By serving his agent as provided by rule, statute or valid agreement, to-wit:

KEN NUNN LAW OFFICE

BY: s/ RYAN D. ETTER
 ATTORNEY FOR PLAINTIFF

CERTIFICATE OF MAILING: I certify that on the _____ day of _____, 2020, I mailed a copy of this summons and a copy of the complaint to each of the defendant(s) by (registered or certified mail requesting a return receipt signed by the addressee only, addressed to each of said defendant(s) at the address(es) furnished by plaintiff.

Dated this _____ day of _____, 2020.

CLERK, MARION CIRCUIT/SUPERIOR COURTS

RETURN OF SERVICE OF SUMMONS BY MAIL: I hereby certify that service of summons with return receipt requested was mailed on the _____ day of _____, 2020, and that a copy of the return of receipt was received by me on the _____ day of _____, 2020, which copy is attached herewith.

CLERK, MARION CIRCUIT/SUPERIOR COURTS

CERTIFICATE OF CLERK OF SUMMONS NOT ACCEPTED BY MAIL: I hereby certify that on the _____ day of _____, 2020, I mailed a copy of this summons and a copy of the complaint to the defendant(s) by (registered or certified) mail, and the same was returned without acceptance this _____ day of _____, 2020, and I did deliver said summons and a copy of the complaint to the Sheriff of MARION County, Indiana.

Dated this _____ day of _____, 2020.

CLERK, MARION CIRCUIT/SUPERIOR COURTS

RETURN OF SUMMONS: This summons came to hand on the _____ day of _____, 2020, and I served the same on the _____ day of _____, 2020.

1. By mailing a copy of the summons and complaint personally to _____ address _____.
2. By delivering a copy of summons and complaint personally to _____.
3. By leaving a copy of the summons and complaint at _____ the dwelling house or usual place of abode of defendant: _____ (Name of Person) and by mailing by first class mail a copy of the summons on the _____ day of _____, 2020 to _____ his last known address.
4. By serving his agent as provided by rule, statute or valid agreement to-wit: _____.
5. Defendant cannot be found in my bailwick and summons was not served.

And I now return this writ this _____ day of _____, 2020.

SHERIFF or DEPUTY

RETURN ON SERVICE OF SUMMONS: I hereby certify that I have served the within summons:

1. By delivery on the _____ day of _____, 2020 a copy of this summons and a copy of the complaint to each of the within named defendant(s) _____.
2. By leaving on the _____ day of _____, 2020 for each of the within named defendant(s) _____, a copy of the summons and a copy of the complaint at the respective dwelling house or usual place of abode with _____ a person of suitable age and discretion residing therein whose usual duties or activities include prompt communication of such information to the person served.
3. _____ and by mailing a copy of the summons without the complaint to _____ at _____ the last known address of defendant(s).

All done in MARION County, Indiana.

Fees: \$ _____

SHERIFF or DEPUTY

CIRCUIT/SUPERIOR COURTS FOR THE COUNTY OF MARION
STATE OF INDIANA
CITY COUNTY BUILDING, 200 E. WASHINGTON STREET
INDIANAPOLIS, INDIANA 46204
TELEPHONE 317 327-4740

Jose Gomez

Plaintiff(s)

VS.

No. _____

Wesley Beachy and K and K Trucking, Inc.

Defendant(s)

SUMMONS

The State of Indiana to Defendant: **K and K Trucking, Inc., c/o Owner Operator Services, Inc., Mark Elrod, 3037 North 550E, Peru, IN 46970**

You have been sued by the person(s) named "plaintiff" in the court stated above.

The nature of the suit against you is stated in the complaint which is attached to this document. It also states the demand which the plaintiff has made and wants from you.

You must answer the complaint in writing, by you or your attorney, within Twenty (20) days, commencing the day after you receive this summons, or judgment will be entered against you for what the plaintiff has demanded. You have twenty-three (23) days to answer if this summons was received by mail. **Such Answer Must Be Made In Court.**

If you have a claim for relief against the plaintiff arising from the same transaction or occurrence, you must assert it in your written answer.

Date: 8/19/2020

Myra A. Eldridge

CLERK, MARION CIRCUIT/SUPERIOR COURTS

RYAN D. ETTER, #27832-49
ATTORNEY FOR PLAINTIFF
KEN NUNN LAW OFFICE
104 FRANKLIN ROAD
BLOOMINGTON, IN 47404

ACKNOWLEDGMENT OF SERVICE OF SUMMONS

A copy of the above summons and a copy of the complaint attached thereto were received by me at _____
this _____ day of _____, 2020.

SIGNATURE OF DEFENDANT

PRAECIPE: I designate the following mode of service to be used by the Clerk.

- XX By certified or registered mail with return receipt to above address.
- By Sheriff delivering a copy of summons and complaint personally to defendant or by leaving a copy of the summons and complaint at his dwelling house or usual place of abode with some person of suitable age and discretion residing therein.
- By _____ delivering a copy of summons and complaint personally to defendant or by leaving a copy of the summons and complaint at his dwelling house or usual place of abode.
- By serving his agent as provided by rule, statute or valid agreement, to-wit:

KEN NUNN LAW OFFICE

BY: s/ RYAN D. ETTER
ATTORNEY FOR PLAINTIFF



CERTIFICATE OF MAILING: I certify that on the _____ day of _____, 2020, I mailed a copy of this summons and a copy of the complaint to each of the defendant(s) by (registered or certified mail requesting a return receipt signed by the addressee only, addressed to each of said defendant(s) at the address(es) furnished by plaintiff.

Dated this _____ day of _____, 2020.

CLERK, MARION CIRCUIT/SUPERIOR COURTS

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CLERK, MARION CIRCUIT/SUPERIOR COURTS

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Dated this _____ day of _____, 2020.

CLERK, MARION CIRCUIT/SUPERIOR COURTS

RETURN OF SUMMONS: This summons came to hand on the _____ day of _____, 2020, and I served the same on the _____ day of _____, 2020.

1. By mailing a copy of the summons and complaint personally to _____ address _____.
2. By delivering a copy of summons and complaint personally to _____.
3. By leaving a copy of the summons and complaint at _____ the dwelling house or usual place of abode of defendant: _____ (Name of Person) and by mailing by first class mail a copy of the summons on the _____ day of _____, 2020 to _____ his last known address.
4. By serving his agent as provided by rule, statute or valid agreement to-wit: _____.
5. Defendant cannot be found in my bailwick and summons was not served.

And I now return this writ this _____ day of _____, 2020.

SHERIFF or DEPUTY

RETURN ON SERVICE OF SUMMONS: I hereby certify that I have served the within summons:

1. By delivery on the _____ day of _____, 2020 a copy of this summons and a copy of the complaint to each of the within named defendant(s) _____.
2. By leaving on the _____ day of _____, 2020 for each of the within named defendant(s) _____, a copy of the summons and a copy of the complaint at the respective dwelling house or usual place of abode with _____ a person of suitable age and discretion residing therein whose usual duties or activities include prompt communication of such information to the person served.
3. _____ and by mailing a copy of the summons without the complaint to _____ at _____ the last known address of defendant(s).

All done in MARION County, Indiana.

Fees: \$ _____

SHERIFF or DEPUTY

STATE OF INDIANA) IN THE MARION COUNTY SUPERIOR COURT 4
) SS:
COUNTY OF MARION) CAUSE NO. 49D04-2008-CT-028382

JOSE GOMEZ,)
)
Plaintiff,)
)
vs.)
)
WESLEY BEACHY and)
K AND K TRUCKING, INC.,)
)
Defendants.)

**APPEARANCE FORM (CIVIL)
RESPONDING PARTY**

1. Please enter my appearance for:

WESLEY BEACHY and K AND K TRUCKING, INC.

2. Attorney information (as applicable for service of process):

Name:	Erin A. Clancy	Atty. Number: 21962-49
	Jordan M. Slusher	Atty. Number: 34204-49
Address:	Kightlinger & Gray, LLP 211 N. Pennsylvania Street Suite 300 Indianapolis, Indiana 46204	Phone: 317/638-4521 FAX: 317/636-5917 Computer address: eclancy@k-glaw.com jslusher@k-glaw.com

3. Will responding party accept FAX service: Yes No

4. Additional information required by state or local rule:

KIGHTLINGER & GRAY, LLP

By: /s/Erin A. Clancy
Erin A. Clancy, I.D. No. 21962-49
Jordan M. Slusher, I.D. No. 34204-49
Attorney for Defendants, Wesley Beachy and K and K Trucking, Inc.

CERTIFICATE OF SERVICE

I hereby certify that on this 31st day of August, 2020, the foregoing was electronically filed with the Marion County Superior Court 4 and was served – through the Court's E-Filing system – on the following:

Ryan D. Etter
KEN NUNN LAW OFFICE
104 South Franklin Road
Bloomington, IN 47404
ryane@kennunn.com
Attorney for Plaintiff

/s/Erin A. Clancy
Erin A. Clancy

KIGHTLINGER & GRAY, LLP
One Indiana Square, Suite 300
211 N. Pennsylvania Street
Indianapolis, IN 46204
(317) 638-4521
Eclancy@k-glaw.com

STATE OF INDIANA) IN THE MARION COUNTY SUPERIOR COURT 4
) SS:
COUNTY OF MARION) CAUSE NO. 49D04-2008-CT-028382

JOSE GOMEZ,)
)
Plaintiff,)
)
vs.)
)
WESLEY BEACHY and)
K AND K TRUCKING, INC.,)
)
Defendants.)

DEFENDANTS' MOTION FOR EXTENSION OF TIME TO RESPOND TO
PLAINTIFF'S COMPLAINT FOR DAMAGES

Defendants Wesley Beachy and K and K Trucking, Inc. ("Defendants"), by counsel, respectfully move the Court for an extension of time of 30 days up to and including October 11, 2020, in which to file a responsive pleading to Plaintiffs' Complaint for Damages. In support of said Motion, Defendants show the Court:

1. That Plaintiff's Complaint for Damages was filed with the Court on August 19, 2020; thereby making Defendants' response due no earlier than September 11, 2020.
2. Defendants respectfully request an initial enlargement of time of thirty (30) days or to and including October 11, 2020, within which to answer or otherwise respond to Plaintiff's Complaint for Damages.
3. This request for an enlargement of time is not made for the purposes of delay, but rather to allow time for Defendants' counsel to prepare a proper response to Plaintiff's Complaint for Damages.
4. Counsel for Defendants contacted counsel for Plaintiff who has advised he has no objection to the filing of this Motion.

WHEREFORE, Defendants Wesley Beachy and K and K Trucking, Inc., pray that the time for filing a responsive pleading to the Plaintiff's Complaint for Damages be extended for a period of thirty (30) days, up to and including October 11, 2020 and for all other just and proper relief in the premises.

KIGHTLINGER & GRAY, LLP

By: /s/Erin A. Clancy
Erin A. Clancy, I.D. No. 21962-49
Jordan M. Slusher, I.D. No. 34204-49
Attorney for Defendants, Wesley Beachy and K and K Trucking, Inc.

CERTIFICATE OF SERVICE

I hereby certify that on this 31st day of August, 2020, the foregoing was electronically filed with the Marion County Superior Court 4 and was served – through the Court's E-Filing system – on the following:

Ryan D. Etter
KEN NUNN LAW OFFICE
104 South Franklin Road
Bloomington, IN 47404
ryane@kennunn.com
Attorney for Plaintiff

/s/Erin A. Clancy
Erin A. Clancy

KIGHTLINGER & GRAY, LLP
One Indiana Square, Suite 300
211 N. Pennsylvania Street
Indianapolis, IN 46204
(317) 638-4521
Eclancy@k-glaw.com

STATE OF INDIANA) IN THE MARION COUNTY SUPERIOR COURT 4
) SS:
 COUNTY OF MARION) CAUSE NO. 49D04-2008-CT-028382

JOSE GOMEZ,)
)
 Plaintiff,)
)
 vs.)
)
 WESLEY BEACHY and)
 K AND K TRUCKING, INC.,)
)
 Defendants.)

ORDER ON EXTENSION OF TIME

This cause came before the Court upon the Motion of the Defendants for a Motion for Extension of Time to respond to Plaintiff's Complaint for Damages.

The Court, having considered said Motion and, being duly advised in the premises, now GRANTS the same, and

THEREFORE, IT IS ORDERED that the Defendants Wesley Beachy and K and K Trucking, Inc., may have an extension of time of thirty (30) days, up to and including October 11, 2020, within which to answer or otherwise plead to Plaintiff's Complaint for Damages.

DATED: August 31, 2020

Cynthia J. Ayers
Judge, Marion County Superior Court 41

Distribution to:

Ryan D. Etter KEN NUNN LAW OFFICE 104 South Franklin Road Bloomington, IN 47404 ryane@kennunn.com <i>Attorney for Plaintiff</i>	Erin A. Clancy Jordan M. Slusher KIGHTLINGER & GRAY, LLP One Indiana Square, Suite 300 211 N. Pennsylvania Street Indianapolis, IN 46204 eclancy@k-glaw.com jslusher@k-glaw.com <i>Attorney for Defendant</i>
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